

AMENDED IN SENATE AUGUST 7, 2012

AMENDED IN ASSEMBLY MAY 7, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2243

Introduced by Assembly Member Knight
(Coauthor: Assembly Member Conway)
(Coauthors: Senators Fuller and Runner)

February 24, 2012

An act to add Article 5 (commencing with Section 2210) to Chapter 5 of Title 7 of Part 4 of Division 3 of the Civil Code, relating to space flight.

LEGISLATIVE COUNSEL'S DIGEST

AB 2243, as amended, Knight. Space flight: Space Flight Liability and Immunity Act.

Existing state law governs common carriers, including contracts for the conveyance of property, persons, or messages from one place to another.

Federal law specifically governs commercial space flight activities. Among other provisions, federal law requires that space flight providers obtain both the written consent of space flight participants and liability insurance.

This bill would require a space flight entity, as defined, to collect a signed warning statement, as specified, from each participant in space flight activities, as defined. In addition to the disclosures required by federal law, the bill would require the warning statement to, at a minimum, inform the participant that ~~the space flight entity is not liable~~

there is limited civil liability for bodily injury sustained as a result of the inherent risks associated with space flight activities. The bill would limit the liability of a space flight entity that complies with these provisions, except as provided. ~~The bill would state findings and declarations of the Legislature regarding the nature of the space flight industry.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Space Flight Liability and Immunity Act.
3 ~~SEC. 2. The Legislature finds and declares all of the following:~~
4 ~~(a) California has a long tradition of pioneering aviation over~~
5 ~~the last century, and human space flight since the Apollo era.~~
6 ~~(b) California was the site of the first private human space flight~~
7 ~~event. This achievement resulted in the winning of the Ansari X~~
8 ~~Prize in Mojave, California, in 2004.~~
9 ~~(c) Over the past few decades, California has lost much of its~~
10 ~~human space flight industry to other states, such as Alabama,~~
11 ~~Colorado, Florida, New Mexico, and Texas.~~
12 ~~(d) The human space flight business in California continues to~~
13 ~~struggle due to the poor business climate in general.~~
14 ~~(e) Human space flight is a young industry reminiscent of other~~
15 ~~industries in which the hazards were understood, but which would~~
16 ~~not have thrived in an inappropriately litigious environment.~~
17 ~~(f) The States of Florida, Texas, and Virginia have acted to~~
18 ~~relieve the business risks associated with new and well-financed~~
19 ~~companies that provide human space flight by passing legislation~~
20 ~~limiting the liability of such providers, and the States of Colorado~~
21 ~~and New Mexico are in the process of passing similar legislation.~~
22 ~~Consequently, these states will become a magnet for human space~~
23 ~~flight companies currently doing business in California.~~
24 ~~SEC. 3.~~
25 SEC. 2. Article 5 (commencing with Section 2210) is added
26 to Chapter 5 of Title 7 of Part 4 of Division 3 of the Civil Code,
27 to read:

Article 5. Space Flight Liability and Immunity

2210. For purposes of this article:

(a) “Participant” means a space flight participant as defined in Section 50902 of Title 51 of the United States Code.

(b) “Participant injury” means a bodily injury, including death, emotional injury, or property damage, sustained by the participant.

(c) “Space flight activities” means launch services or reentry services as defined in Section 50902 of Title 51 of the United States Code.

(d) “Space flight entity” means any public or private entity that holds, either directly or through a corporate subsidiary or parent, a license, permit, or other authorization issued by the United States Federal Aviation Administration pursuant to the federal Commercial Space Launch Amendments Act of 2004 (51 U.S.C. Sec. 50905 et seq.), including, but not limited to, a safety approval and a payload determination.

2211. (a) A space flight entity providing space flight activities to a participant shall have each participant sign a warning statement that shall contain, at a minimum, and in addition to any language required by federal law, the following notice:

“WARNING AND ACKNOWLEDGMENT: I understand and acknowledge that, under California law, there is ~~no~~ *limited* civil liability for bodily injury, including death, emotional injury, or property damage, sustained by a participant as a result of the inherent risks associated with space flight activities provided by a space flight entity. I have given my informed consent to participate in space flight activities after receiving a description of the inherent risks associated with space flight activities, as required by federal law pursuant to Section 50905 of Title 51 of the United States Code and Section 460.45 of Title 14 of the Code of Federal Regulations. The consent that I have given acknowledges that the inherent risks associated with space flight activities include, but are not limited to, risk of bodily injury, including death, emotional injury, and property damage. I understand and acknowledge that I am participating in space flight activities at my own risk. I have been given the opportunity to consult with an attorney before signing this statement.”

(b) Failure to comply with the requirements provided in this section shall prevent a space flight entity from invoking the privileges of immunity provided by Section 2212.

2212. (a) Except as provided in subdivision (c), a space flight entity shall not be liable for participant injury arising out of space flight activities if both of the following apply:

(1) The participant has been informed of the risks associated with space flight activities as required by federal law and Section 2211.

(2) The participant has given his or her informed consent that he or she is voluntarily participating in space flight activities after having been informed of the risks associated with those activities, as required by federal law and ~~this section~~ *Section 2211*.

(b) If informed consent is given pursuant to subdivision (a), a participant, his or her representative, including the heirs, administrators, executors, assignees, next of kin, and estate of the participant, or any person who attempts to bring a claim on behalf of the participant for a participant injury, shall not be authorized to maintain an action against, or recover from, a space flight entity for a participant injury that resulted from the risks associated with space flight activities, except as provided in subdivision (c).

(c) Nothing in this section shall prevent or limit the liability of a space flight entity that does any of the following:

(1) Commits an act or omission that constitutes gross negligence or willful or wanton disregard for the safety of the participant, and that act or omission proximately causes a participant injury.

(2) Intentionally causes a participant injury.

(3) Has actual knowledge or reasonably should have known of a dangerous condition on the land or in the facilities or equipment used in space flight activities and the dangerous condition proximately causes injury, damage, or death to the participant.

(d) Any limitation on legal liability afforded by this section to a space flight entity is in addition to any other limitations of legal liability otherwise provided by law.

(e) Nothing in this section shall be construed to limit the liability of a manufacturer of a part or component used in space flight activities if a defective part or component proximately causes an injury to the participant.

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